

**IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 05-CV-00329-TCK-SAJ
	)	
TYSON FOODS, INC., et al.,	)	
	)	
Defendants.	)	

**STATE OF OKLAHOMA'S MOTION TO COMPEL  
PETERSON FARMS, INC. TO RESPOND TO ITS MAY 30,  
2006 SET OF REQUESTS FOR PRODUCTION AND BRIEF IN SUPPORT**

COMES NOW the Plaintiff, the State of Oklahoma, ex rel. W.A. Drew Edmondson, in his capacity as Attorney General of the State of Oklahoma, and Oklahoma Secretary of the Environment, C. Miles Tolbert, in his capacity as the Trustee for Natural Resources for the State of Oklahoma under CERCLA, ("the State"), and for its Motion to Compel Peterson Farms, Inc. to Respond to its May 30, 2006 Set of Requests for Production states as follows:<sup>1</sup>

**I. INTRODUCTION**

On May 30, 2006 the State propounded to Defendant Peterson Farms, Inc. ("Peterson") requests for production centering on documents and materials produced to plaintiffs in a similar poultry waste pollution lawsuit previously brought in this Court, *City of Tulsa v. Tyson Foods, Inc.*, 01-CV-0900. The requested documents and materials concern documents and materials made available for inspection and copying by Peterson to plaintiffs in the *City of Tulsa* lawsuit (Request for Production No. 1); privilege logs produced by Peterson to plaintiffs in the *City of Tulsa* lawsuit (Request for Production No. 2); written discovery responses made by Peterson to

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<sup>1</sup> The parties conferred in good faith on July 31, 2006, and have been unable to reach an accord on the matters that are the subject of this motion.

plaintiffs in the *City of Tulsa* lawsuit (Request for Production No. 3); transcripts of persons in Peterson's employ and / or under contract with Peterson who were deposed in the *City of Tulsa* lawsuit, including all exhibits referenced in the deposition (Request for Production No. 4); transcripts of depositions of persons retained by Peterson as expert witnesses who were deposed in the *City of Tulsa* lawsuit (Request for Production No. 5); documents and materials referring, relating or pertaining to the implementation of and compliance with the terms of the consent order entered in the *City of Tulsa* lawsuit (Request for Production No. 6); and joint defense agreements to which Peterson is a party that pertain to, in whole or in part, the current lawsuit, *State of Oklahoma v. Tyson Foods, Inc.* (Request for Production No. 7). (Responses of Defendant, Peterson Farms, Inc. to State of Oklahoma's May 30, 2006 Set of Requests for Production to Poultry Integrator Defs. [Ex. A].) The State's requests for production, given the similarities between its case and the *City of Tulsa* lawsuit, *see infra*, were simply an effort to save all the parties involved time and money. *See* Fed. R. Civ. P. 1.

In response to Requests for Production Nos. 1-6, however, Peterson objected and responded with this objection:

Peterson Farm objects to this request as it is overly broad and unduly burdensome. This request seeks the entire production of documents related to another litigated case that involved another distinct watershed, entirely different operations, and which included within its scope Peterson Farms' poultry processing plant, which is not at issue in the present case. Furthermore, Peterson Farms objects to this request as it seeks documents that are neither relevant to Plaintiffs' claims, nor are they likely to lead to the discovery of relevant [sic] evidence. Peterson Farms also objects to this request as it seeks documents and information regarding operations which occurred outside of the statute of limitations applicable to Plaintiffs' claims in this case. Finally, Peterson Farms objects to the request as it includes within its scope documents that contain confidential business information and trade secrets. The request fails to set forth a sufficiently defined scope of discovery or to adequately identify the type or nature of documents sought so as to reach any specific documents, which constitutes a mere fishing expedition. Therefore, it is apparent that this request was not

propounded for any legitimate purpose, but was served solely to harass and oppress Peterson Farms.

(Responses of Defendant, Peterson Farms, Inc. to State of Oklahoma's May 30, 2006 Set of Requests for Production to Poultry Integrator Defs. [Ex. A].)<sup>2</sup> In addition to the above objections, in response to the State's request for documents pertaining to the implementation of the consent order resolving the *City of Tulsa* action, Peterson Farms directed the State to the Court's Special Master.<sup>3</sup> (Responses of Defendant, Peterson Farms, Inc. to State of Oklahoma's May 30, 2006 Set of Requests for Production to Poultry Integrator Defs. [Ex. A].) Also, in response to the State's request for copies of any joint defense agreements, Peterson added to its relevancy objection privilege and protection objections. (Responses of Defendant, Peterson Farms, Inc. to State of Oklahoma's May 30, 2006 Set of Requests for Production to Poultry Integrator Defs. [Ex. A].) In sum, Peterson's overarching position appears to be that documents and materials involved in a similar prior case in which it was involved have absolutely no bearing on matters in this case. This claim is untenable.

The similarities between this lawsuit and the *City of Tulsa* case are numerous, particularly with regard to the Poultry Integrator Defendants' conduct and the theories of Poultry Integrator Defendants' legal liability. For instance:

- Both cases involve government entities suing poultry integrators for pollution to Oklahoma waters. (*Compare* Oklahoma Compl. ¶ 5 with Tulsa Compl. ¶ 3.)
- The Oklahoma suit names six of the seven defendants named in the *City of Tulsa* suit (Tyson Foods, Inc., Cobb-Vantress, Inc., Peterson Farms, Inc., Simmons Foods, Inc.,

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<sup>2</sup> Such "confidentiality" and "trade secret" objections will be dealt with pursuant to the confidentiality order contemplated by this Court's August 15, 2006 Order (DKT #888).

<sup>3</sup> This objection is summarily disposed of inasmuch as there is an obligation under Fed. R. Civ. P. 34(a) to produce responsive documents "which are in the possession, custody or control of the party upon whom the request is served."

Cargill, Inc., and George's, Inc.), and those six defendants are poultry integrators. (*Compare* Oklahoma Compl. ¶¶ 6-21 with Tulsa Compl. ¶¶ 4-9.)

- Both cases allege impairment of the beneficial and public use and enjoyment of Oklahoma waters. (*Compare* Oklahoma Compl. ¶¶ 25-27 with Tulsa Compl. ¶¶ 2, 29.)
- Both cases allege pollution of water bodies that are sources of drinking water. (*Compare* Oklahoma Compl. ¶ 28 with Tulsa Compl. ¶¶ 11-14.)
- Both cases are actions for pollution by poultry integrators of a watershed area. (*Compare* Oklahoma Compl. ¶¶ 22-23 with Tulsa Compl. ¶¶ 14-16.)
- Each case has as its gravamen the pollution activities by the poultry integrators in a watershed area. (*Compare* Oklahoma Compl. ¶¶ 51-55 with Tulsa Compl. ¶ 16.)
- Both cases allege that the same type of activities by the poultry integrators are the cause of the pollution of the waters. (*Compare* Oklahoma Compl. ¶¶ 32-42 with Tulsa Compl. ¶ 18.)
- Both cases allege that the relationship between the poultry integrators and their growers is a relationship of employer / employee or principal / agent, and that the relationship of the growers to the poultry integrators is not that of an independent contractor. (*Compare* Oklahoma Compl. ¶ 43 with Tulsa Compl. ¶ 18.)
- Both cases focus on the specific manner in which the poultry integrators and their growers dispose of poultry waste on land as the underlying cause of the pollution and damages complained of. (*Compare* Oklahoma Compl. ¶¶ 48-57 with Tulsa Compl. ¶ 19.)
- Both cases allege that overload levels of phosphorus and nitrogen from the poultry waste create part of the pollution and damages complained of. (*Compare* Oklahoma Compl. ¶¶ 58-61 with Tulsa Compl. ¶ 20.)
- Both cases assert a CERCLA cause of action. (*Compare* Oklahoma Compl. ¶¶ 70-77 with Tulsa Compl. ¶¶ 33-41.)
- Both cases assert a state law nuisance claim. (*Compare* Oklahoma Compl. ¶¶ 90-100 with Tulsa Compl. ¶¶ 47-52.)
- Both cases assert a state law claim for trespass. (*Compare* Oklahoma Compl. ¶¶ 111-119 with Tulsa Compl. ¶¶ 53-56.)
- Both cases assert a state law claim for unjust enrichment. (*Compare* Oklahoma Compl. ¶¶ 132-139 with Tulsa Compl. ¶¶ 68-71.)

It is clear that this case and the *City of Tulsa* case involve many similar questions of facts, many similar questions of law, and a substantial identity of the defendant parties.<sup>4</sup> Thus, Peterson's boilerplate objection that the State's Requests for Production seek "documents that are neither relevant to Plaintiff's claims, nor are they likely to lead to the discovery of relevant evidence" has no merit, especially given the fact that Peterson's Objections and Responses give no rational basis for this position.<sup>5</sup>

## II. ARGUMENT

### A. The State's Requests for Production Ask for Relevant, Discoverable Documents and Materials from Related Prior Litigation

As described above, the State is requesting documents and materials from prior litigation that involved many similar issues. Such requests are relevant to the instant lawsuit, and are discoverable.

A Kansas District Court dealt with this issue in *Snowden v. Connaught Labs., Inc.*, 137 F.R.D. 325 (D. Kan. 1991). The *Snowden* plaintiffs brought a products liability action over the DPT vaccine and requested the production of "documents, records and pleadings growing out of prior litigation." *Snowden*, 137 F.R.D. at 327. The requests for production were virtually identical in nature to what the State has asked for here, and included the following sorts of requests for documents and materials from the prior litigation:

- Copies of interrogatories directed to defendants and their responses;
- Copies of requests for production of documents and their responses;

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<sup>4</sup> Admittedly, the instant case and the *City of Tulsa* case are not completely identical. For example, the instant case involves broader injury and damages claims than those alleged in the *City of Tulsa* case. But that in no way diminishes the relevancy of the State's discovery requests.

<sup>5</sup> Peterson cannot credibly assert that its poultry waste handling practices (or the adverse environmental impact of those practices) in the Eucha-Spavinaw Watershed are *sui generis*.

- Copies of requests for admissions and their responses;
- Copies of depositions taken of defendants' employees and former employees; and
- Copies of transcripts of court testimony.

*Snowden*, 137 F.R.D. at 328. The *Snowden* plaintiffs argued that the documents were relevant and material because “the other lawsuits are identical in nature” and production “would serve to limit the breadth and scope of discovery.” *Snowden*, 137 F.R.D. at 328.

Defendants in *Snowden* – just like Peterson here – argued that the materials did not have to be produced because the request was “unduly burdensome and excessive due to the scope” and “not reasonably calculated to lead to admissible evidence.” *Snowden*, 137 F.R.D. at 328. Defendants in *Snowden* also argued that there was no central repository for the documents and that they were “in the possession of various lawyers who are no longer employed” by defendants. *Snowden*, 137 F.R.D. at 328.<sup>6</sup>

In rejecting defendants' arguments and granting plaintiffs' motion to compel, the *Snowden* court observed that “[i]t is plain that the scope of discovery through interrogatories and requests for production of documents is limited only by relevance and burdensomeness.” *Snowden*, 137 F.R.D. at 329 (quoting *Rich v. Martin Marietta Corp.*, 522 F.2d 333, 343 (10th Cir. 1975)). The test for relevancy is a liberal one: “a request for discovery should be considered relevant if there is any possibility that the information sought may be relevant to the subject matter of the actions.” *Snowden*, 137 F.R.D. at 329. Put another way, discovery should be allowed unless it is clear that the information cannot have any possible bearing on the subject matter of the action.

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<sup>6</sup> Peterson's counsel here represented Peterson in the *City of Tulsa* case. See *City of Tulsa v. Tyson Foods, Inc.*, 258 F. Supp. 2d 1263, 1269 (N.D. Okla. 2003), *vacated in connection with settlement*.

The *Snowden* court determined that the claims asserted “would presumably be the same types of claims” asserted in the prior cases and that the subject matter would be the same. *Snowden*, 137 F.R.D. at 330. Such is the case here. The *Snowden* court also recognized that the information sought from the prior litigation “could save the time and expense of duplicating discovery aimed at the same issues and materials already produced in prior litigation.” *Snowden*, 137 F.R.D. at 330. The similarity of the cases lead the court to conclude that “it is not unlikely that discovery of this nature will lead to admissible evidence,” “plaintiffs’ claim of relevance has merit,” and “the documents, pleadings and records plaintiffs seek meet the broad test of relevancy under Rule 26 and the case law construing that rule.” *Snowden*, 137 F.R.D. at 330.

A Maryland District Court reached the same conclusion when addressing plaintiffs’ motion to compel documents related to two lawsuits brought against the defendant in other jurisdictions. *Tucker v. Ohtsu Tire & Rubber Co.*, 191 F.R.D. 495 (D. Md. 2000). There, defendant objected to production of the documents on grounds of relevance and burdensomeness, among other grounds. *Tucker*, 191 F.R.D. at 497. The *Tucker* court rejected defendant’s relevance and burdensomeness arguments.

First, the *Tucker* court ruled that plaintiffs had established threshold relevance under Fed. R. Civ. P. 26(b)(1) and Fed. R. Evid. 401 because plaintiffs in the prior case alleged the same causes of action as were alleged in the case before the court. *Tucker*, 191 F.R.D. at 497-98. Second, the court characterized defendant’s assertions of burdensomeness as “non-specific objections, which are insufficient to prevent the requested discovery.” *Tucker*, 191 F.R.D. at 498. As the *Tucker* court noted, “[t]he party claiming that a discovery request is unduly burdensome must allege specific facts that indicate the nature and extent of the burden, usually



by affidavits or other reliable evidence. A conclusory assertion of burden and expense is not enough.” *Tucker*, 191 F.R.D. at 498 (citations omitted).

The *Snowden* and *Tucker* courts’ reasoning is directly applicable to the issue before this Court, and supports a grant of the State’s Motion to Compel.

### **B. The State's Discovery Is Not Restricted by a Statute of Limitations**

Peterson's contention that the State's Requests for Production are somehow restricted by a statute of limitations ignores the fact that the statute of limitations under Oklahoma law does not run against the State when it is acting, as is the case here, in its sovereign capacity to enforce a public right. *See State v. Tidmore*, 674 P.2d 14, 15 (Okla. 1983) ("We have long-recognized the general rule that statutes of limitations do not operate against the state when it is acting in its sovereign capacity to enforce a public right") (citations omitted); *Oklahoma City Municipal Improvement Authority v. HTB, Inc.*, 769 P.2d 131, 134 (Okla. 1988) ("From these cases we distill the general rule that statutes of limitation shall not bar suit by any government entity acting in its sovereign capacity to vindicate public rights, and that public policy requires that every reasonable presumption favor government immunity from such limitation"). Accordingly, this objection should be overruled.<sup>7</sup>

### **C. Peterson’s Formulaic, Boilerplate Objections Are Inadequate**

Peterson’s standard, boilerplate objection to the State’s Requests for Production indicates the lack of seriousness that attends Peterson’s consideration of the Requests. A party resisting production has the burden of establishing lack of relevancy or undue burden. *Oleson v. Kmart*

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<sup>7</sup> In any event, even assuming arguendo that there were an applicable statute of limitations, it is well-established that “[i]n proper circumstances (particularly where such discovery is useful in understanding more recent events) discovery may be allowed about events that occurred at a time when a claim based upon them would be barred by limitations.” Wright & Miller, *Federal Practice & Procedure*, § 2009.



*Corp.*, 175 F.R.D. 560, 565 (D. Kan. 1997) (citing *Peat, Marwick, Mitchell & Co. v. West*, 748 F.2d 540 (10th Cir. 1984)). The party resisting discovery must show the court “that the requested documents either do not come within the broad scope of relevance defined pursuant to Fed. R. Civ. P. 26(b)(1) or else are of such marginal relevance that the potential harm occasioned by discovery would outweigh the ordinary presumption in favor of broad disclosure.” *Burke v. New York City Police Department*, 115 F.R.D. 220, 224 (S.D.N.Y. 1987).

“The litany of overly burdensome, oppressive, and irrelevant does not alone constitute a successful objection to a discovery request.” *Oleson*, 175 F.R.D. at 565; *see also Josephs v. Harris Corp.*, 677 F.2d 985, 992 (3rd Cir. 1982) (the “mere statement by a party that the [discovery request] was ‘overly broad, burdensome, oppressive and irrelevant’ is not adequate to voice a successful objection”) (quoting *Roesberg v. Johns-Manville Corp.*, 85 F.R.D. 292, 296-97 (E.D. Pa. 1980)); *Cipollone v. Liggett Group, Inc.*, 785 F.2d 1108, 1121 (3rd Cir. 1986) (holding objecting party must demonstrate that a particularized harm is likely to occur if the discovery be had by the party seeking it). Boilerplate burdensomeness and relevancy objections that do not set out any explanation or argument for burdensomeness or irrelevancy are improper. *A. Farber & Partners, Inc. v. Garber*, 234 F.R.D. 186, 188 (C.D. Cal. 2006); *see also M2 Software, Inc. v. M2 Communications, L.L.C.*, 217 F.R.D. 499, 501 (C.D. Cal. 2003) (“The [resisting party’s] General Objections are not sufficient to raise any substantial, meaningful or enforceable objections to any particular discovery request.”).

As one court noted, in language directly applicable here, “each objection asserted by the [resisting party] is boilerplate, obstructionist, frivolous, overbroad, and, significantly, contrary to well-established and long standing federal law.” *St. Paul Reinsurance Co. v. Commercial Fin.*

*Corp.*, 198 F.R.D. 508, 511 (N.D. Iowa 2000). The Court should reject Peterson's boilerplate objections and compel it to produce the documents requested.

**D. Peterson's Claim That Joint Defense Agreements Are Privileged or Protected is Unavailing**

The State's Request for Production No. 7 requests "copies of all joint defense agreements to which you are a party that pertain to, in whole or in part, the *State of Oklahoma v. Tyson Foods, Inc.*, 05-CV-329, lawsuit." Peterson's complete objection and response, in addition to its irrelevancy assertion, is: "Peterson Farms objects to this request as it seeks documents that are protected from discovery by virtue of the attorney-client, joint defense and co-party privileges, as well as the trial preparation and attorney work product doctrines." (Responses of Defendant, Peterson Farms, Inc. to State of Oklahoma's May 30, 2006 Set of Requests for Production to Poultry Integrator Defs. [Ex. A].) This objection is unfounded.<sup>8</sup>

The State is requesting copies of any joint defense agreements themselves. Such agreements are relevant inasmuch, to the extent there are any, they are necessary for the State to evaluate Peterson's privilege claims in this litigation. Peterson has done nothing to even indicate why any privilege or protection applies to any such agreements. One court, after viewing *in camera* a joint defense agreement, stated that "[t]he claim that the [joint defense] agreement itself is work product is without merit. The agreement does nothing to reveal counsel's mental impressions or thought processes, and the substantial need is fulfilled by the requirement of proving the privilege." *Power Mosfet Techs. v. Siemens AG*, 206 F.R.D. 422, 426 n. 12 (E.D. Tex. 2000). The court held that "[w]hen the propriety of the privilege is disputed, then courts must resort to *in camera* inspection to determine what documents if any are protected." *Power*

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<sup>8</sup> To the extent any such agreements were entered into prior to the filing of the State's lawsuit, Peterson is required to provide a privilege log setting forth the documents being withheld from production. See LCvR 26.4.

*Mosfet*, 206 F.R.D. at 426 n. 12. In the case before it, the *Power Mosfet* court determined that judicial economy was best served by producing the document. *Power Mosfet*, 206 F.R.D. at 426 n. 12; *see also United States v. Hsia*, 81 F. Supp. 2d 7, 11 n. 3 (D.D.C. 2000) (stating court was unconvinced “that either the existence or the terms of a JDA [joint defense agreement] are privileged”).

Here, Peterson has provided absolutely no indication, evidence, or argument that any joint defense agreement to which it is a party in this case is deserving of any privilege or protection. Therefore, the Court should order Peterson to produce copies of any such agreements.

### III. CONCLUSION

For all of the above reasons, the State of Oklahoma respectfully requests the Court to compel Defendant Peterson Farms, Inc. to respond to the State’s May 30, 2006 set of requests for production and produce the requested documents forthwith.

Respectfully Submitted,

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Secretary of the Environment  
State of Oklahoma  
3800 NORTH CLASSEN  
OKLAHOMA CITY, OK 73118

/s/ M. David Riggs  
M. David Riggs



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, ex rel. )  
W. A. DREW EDMONDSON, in his capacity as )  
ATTORNEY GENERAL OF THE STATE OF )  
OKLAHOMA and OKLAHOMA SECRETARY )  
OF THE ENVIRONMENT C. MILES TOLBERT, )  
in his capacity as the TRUSTEE FOR NATURAL )  
RESOURCES FOR THE STATE OF OKLAHOMA, )

Plaintiff, )

vs. )

05-CV-0329 TCK-SAJ

TYSON FOODS, INC., TYSON POULTRY, INC., )  
TYSON CHICKEN, INC., COBB-VANTRESS, INC., )  
AVIAGEN, INC., CAL-MAINE FOODS, INC., )  
CAL-MAINE FARMS, INC., CARGILL, INC., )  
CARGILL TURKEY PRODUCTION, LLC, )  
GEORGE'S, INC., GEORGE'S FARMS, INC., )  
PETERSON FARMS, INC., SIMMONS FOODS, INC., )  
and WILLOW BROOK FOODS, INC., )

Defendants. )

TYSON FOODS, INC., TYSON POULTRY, INC., )  
TYSON CHICKEN, INC., COBB-VANTRESS, INC., )  
GEORGE'S, INC., GEORGE'S FARMS, INC., )  
PETERSON FARMS, INC., SIMMONS FOODS, INC., )  
and WILLOW BROOK FOODS, INC., )

Third Party Plaintiffs, )

vs. )

City of Tahlequah, *et al.*, )

Third Party Defendants. )

**RESPONSES OF DEFENDANT, PETERSON FARMS, INC.  
TO STATE OF OKLAHOMA'S MAY 30, 2006 SET OF REQUESTS  
FOR PRODUCTION TO POULTRY INTEGRATOR DEFENDANTS**



Defendant, Peterson Farms, Inc. ("Peterson Farms"), submits the following Responses to State of Oklahoma's May 30, 2006 Set of Requests for Production to Poultry Integrator Defendants Tyson Foods, Inc., Cobb-Vantress, Inc., Peterson Farms, Inc., Simmons Foods, Inc., Cargill, Inc. and George's, Inc., pursuant to Federal Rules of Civil Procedure 26 and 34.

#### **GENERAL OBJECTIONS:**

1. Peterson Farms objects to, and does not agree to subject itself to, the arbitrary and extraordinary "definitions" described by the Plaintiffs to certain terms as set forth in their May 30, 2006 Set of Request for Production propounded to Poultry Integrator Defendants. To the extent that such terms appear in the Request for Production of Documents and are in excess of the requirements of the Federal Rules of Civil Procedure, Peterson Farms instead ascribes the ordinary, every day and reasonably, commonly understood meanings which apply to such terms, and also which comply with the Federal Rules of Civil Procedure. Peterson Farms objects to the definitions to the extent they assume facts not in evidence or related to facts or contentions in dispute in the action. Peterson Farms also specifically objects to the definition of "You" as it is overly broad and includes within its scope persons and/or entities distinct from Peterson Farms. Accordingly, Peterson Farms submits these responses on behalf of itself and not for any other person or entity, including any person or entity who raises poultry under contract with Peterson Farms.

2. Each of the following responses is made subject to and without waiving any objections Peterson Farms may have with respect to the subsequent use of these responses or the documents identified pursuant thereto, and Peterson Farms specifically reserves: (a)

all questions as to the privilege, relevancy, materiality, and admissibility of said responses or documents; (b) the right to object to the uses of said responses or the documents identified pursuant thereto in any lawsuit or proceeding on any or all of the foregoing grounds or on any other proper ground; (c) the right to object on any and all proper grounds, at any time, to other discovery procedures involving or related to said responses or documents; and (d) the right, at any time, upon proper showing, to revise, correct or clarify any of the following responses.

3. Peterson Farms objects to each and every request to the extent it seeks or calls for information or the identification of documents which are protected from discovery and privileged by reason of: (a) the attorney-client communication privilege; (b) the “work product” doctrine; (c) the “trial preparation” doctrine; (d) the joint defense or “co-party” privilege; or (e) any other applicable discovery rule or privilege.

4. Peterson Farms objects to each and every request to the extent it seeks information or the identification of documents concerning any claims or occurrences other than the claims and occurrences set forth in Plaintiffs’ First Amended Complaint for which Plaintiffs request relief.

5. Peterson Farms objects to each request to the extent it seeks or relates to information or the identification of documents which are available to the public, and thus, equally available to Plaintiffs.

6. Peterson Farms objects to each request to the extent it seeks or relates to information or the identification of documents which are protected as proprietary and confidential trade secrets.

7. Peterson also incorporates as though fully restated herein all objections and limitations to responses made by every other Defendant to the corresponding requests for production.

8. The foregoing objections apply to each and every response herein. By specifically incorporating individual General Objections in any response, Peterson Farms expressly does not waive the application of the remainder of the General Objections to such response. Subject to these objections and subject to any additional objections set forth hereinafter, Peterson Farms responds to Plaintiffs' May 30, 2006 Set of Request for Production to Poultry Integrator Defendants as follows:

**REQUEST NO. 1:** Please produce for inspection and copying copies of all documents and materials made available for inspection and copying by you to the plaintiffs in the *City of Tulsa v. Tyson Foods, Inc.*, 01-CV-0900, lawsuit.

**RESPONSE:** Peterson Farms objects to this request as it is overly broad and burdensome. This request seeks the entire production of documents related to another litigated case that involved another distinct watershed, entirely different operations, and which included within its scope Peterson Farms' poultry processing plant, which is not at issue in the present case. Furthermore, Peterson Farms objects to this request as it seeks documents that are neither relevant to Plaintiffs' claims, nor are they likely to lead to the discovery of relevant evidence. Peterson Farms also objects to this request as it seeks documents and information regarding operations which occurred outside of the statute of limitations applicable to Plaintiffs' claims in this case. Finally, Peterson Farms objects to the request as it includes within its scope documents that contain confidential business

information and trade secrets. The request fails to set forth a sufficiently defined scope of discovery or to adequately identify the type or nature of documents sought so as to reach any specific documents, which constitutes a mere fishing expedition. Therefore, it is apparent that this request was not propounded for any legitimate purpose, but was served solely to harass and oppress Peterson Farms.

**REQUEST NO. 2:** Please produce for inspection and copying copies of all privilege logs produced by you to the plaintiffs in the *City of Tulsa v. Tyson Foods, Inc.*, 01-CV-0900, lawsuit.

**RESPONSE:** Peterson Farms responds to this request by incorporating herein the objections set forth in response to Request No. 1, above.

**REQUEST NO. 3:** Please produce for inspection and copying copies of all written discovery responses made by you to the plaintiffs in the *City of Tulsa v. Tyson Foods, Inc.*, 01-CV-0900, lawsuit.

**RESPONSE:** Peterson Farms responds to this request by incorporating herein the objections set forth in response to Request No. 1, above.

**REQUEST NO. 4:** Please produce for inspection and copying copies of all transcripts of depositions of persons in your employ and/or under contract with you who were deposed in the *City of Tulsa v. Tyson Foods, Inc.*, 01-CV-0900, lawsuit including all exhibits referenced in the deposition.

**RESPONSE:** Peterson Farms responds to this request by incorporating herein the objections set forth in response to Request No. 1, above.

**REQUEST NO. 5:** Please produce for inspection and copying copies of all transcripts of depositions of persons retained by you as expert witnesses who were deposed in the *City of Tulsa v. Tyson Foods, Inc.*, 01-CV-0900, lawsuit.

**RESPONSE:** Peterson Farms responds to this request by incorporating herein the objections set forth in response to Request No. 1, above.

**REQUEST NO. 6:** Please produce for inspection and copying copies of all documents and materials referring, relating or pertaining to the implementation of and compliance with the terms of the consent order entered in the *City of Tulsa v. Tyson Foods, Inc.*, 01-CV-0900, lawsuit.

**RESPONSE:** Peterson Farms responds to this request by incorporating herein the objections set forth in response to Request No. 1, above. Furthermore, and without waiving the foregoing objections, Peterson Farms states that documents related to the implementation and compliance with the Court's Settlement Order, to the extent publicly available, can be obtained from the Court's Special Master, John Everett.

**REQUEST NO. 7:** Please produce for inspection and copying copies of all joint defense agreements to which you are a party that pertain to, in whole or in part, the *State of Oklahoma v. Tyson Foods, Inc.*, 05-CV-329, lawsuit.

**RESPONSE:** Peterson Farms objects to this request as it seeks documents that are protected from discovery by virtue of the attorney-client, joint defense and co-party privileges, as well as the trial preparation and attorney work product doctrines. Peterson Farms also objects to this request as the documents sought are not relevant to any claim or

defense at issue in the case, and therefore, they are irrelevant and not likely to lead to the discovery of admissible evidence.

Respectfully submitted,

By /s/ A. Scott McDaniel



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